

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

BLAIR MITCHELL,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CASE NO.: 1:16-CV-035 (LJA)
	:	
Warden EDWARD PHILBIN, <i>et al.</i> ,	:	
	:	
Defendants.	:	

ORDER

On January 12, 2018, the Court entered an Order directing William Mitchell to inform the Court whether he intends to proceed in the above-captioned matter. (Doc. 18.) Moreover, the Court ordered Attorney Michael Loeb, counsel for Plaintiff on appeal, to inform the Court whether he would continue his representation of Plaintiff on remand. (*Id.*) By letter dated January 29, 2018, Attorney Loeb responded to indicate that his representation of Plaintiff concluded with the resolution of the appellate proceedings. (Doc. 19.)

Pursuant to the Court's Order, Mr. Mitchell's response was due on February 2, 2018. (Doc. 18.) Mr. Mitchell, however, has not yet responded. Accordingly, Mr. Mitchell is **HEREBY ORDERED** to show cause why this action should not be dismissed for failure to prosecute. Within twenty-one (21) days of the date of this Order, Mr. Mitchell should elect one of the following courses of action:

- (1) If Mr. Mitchell intends to proceed in the above-captioned matter, he should so indicate to the Court and file a motion for substitution pursuant to Federal Rule of Procedure 25(a)(1); thereafter, Mr. Mitchell should either pay the Court's filing fee, or move to proceed *in forma pauperis* (IFP) as the representative of Plaintiff's estate. Plaintiff was previously mailed a non-prisoner application to proceed IFP, but additional copies of the application can be found in the office of the Clerk of Court.

(2) If Mr. Mitchell does not wish to proceed, he should file a motion for substitution pursuant to Federal Rule of Procedure 25(a)(1) and a motion to voluntarily dismiss this action.

(3) Alternatively, Mr. Mitchell should indicate to the Court why he has not yet responded to the Court's Order.

If Mr. Mitchell does not respond within **twenty-one (21) days of this Order**, Plaintiff's case against Defendants will be dismissed without prejudice.

SO ORDERED, this 14th day of February, 2018.

/s/ Leslie J. Abrams

LESLIE J. ABRAMS, JUDGE
UNITED STATES DISTRICT COURT